

REMARKS

The Patent Office required an election under 35 U.S.C. § 121 of one of the following inventions:

I. Claims 1-6, 10 and 11 drawn to a method for facilitating exploration of data, based on gene expression data and a system therefor, classified in class 702, , subclass 19; and

II. Claims 7-9 and 12 drawn to a method for facilitating exploration of data, based on drug signatures and a system therefor, classified in class 702, , subclass 27.

Applicants provisionally elect to prosecute the Claims of Group II, drawn to a method for facilitating exploration of data, based on drug signatures and a system therefor, with traverse.

Proper restriction of patentably distinct inventions, requires a *serious burden* on the Patent Office. MPEP § 803 ("[i]f the search and examination of an entire application can be made without serious burden, the Examiner *must* examine it on the merits, even though it contains claims to distinct or independent inventions") (emphasis added).

The Patent Office is reminded that reasoning demonstrating the distinctness of the inventions of Groups I and II is insufficient to establish that examination of both inventions seriously burdens the Examiner. Instead, the Patent Office must provide evidence to substantiate the assertion that the inventions of Groups I and II have “acquired a separate status in the art” to establish that examination of both inventions is a serious burden.

Applicants respectfully submit that the Patent Office has failed to provide any evidence whatsoever beyond the conclusory statement that the inventions of Groups I and II have “acquired a separate status in the art” to establish that examination of both inventions in a single application is a serious burden. Accordingly, Applicants submit that restriction between the inventions of Groups I and II is improper. In view of the foregoing, Applicants respectfully request that the restriction requirement under 35 U.S.C. § 121 be withdrawn and the instant Claims be examined in one Application.

The Commissioner is hereby authorized to charge any appropriate fee, which may be required by this paper and to credit any overpayment to Deposit Account No. 03-3117.

Dated: September 18, 2003

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